

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JAMES EDWARD SCOTT, III,

Case No. 3:23-cv-00260-MMD-CLB

Plaintiff,

ORDER

v.

LEAH BORIES, *et al.*,

Defendant.

Pro se Plaintiff James Edward Scott, III is proceeding on an Eighth Amendment deliberate indifference to serious medical needs claim against Defendants, prison employees and officials at the prison where he was formerly incarcerated. (ECF Nos. 5, 6.) Before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Carla Baldwin (ECF No. 44), recommending the Court grant Defendants' unopposed motion for summary judgment (ECF No. 36 ("Motion")). To date, no objections to the R&R have been filed. Because there is no objection, and as further explained below, the Court will adopt the R&R and grant Defendants' Motion.

Because there is no objection, the Court need not conduct de novo review, and is satisfied that Judge Baldwin did not clearly err. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) ("De novo review of the magistrate judges' findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations." (emphasis in original)). Judge Baldwin recommends the Court grant Defendants' Motion because they proffered sufficient evidence with it to meet their initial burden to show that Scott did not properly exhaust his administrative remedies pertinent to the claim he is proceeding on in this case. (ECF No. 44 at 7-9.) Judge Baldwin further notes in the R&R that the Court issued an order warning Scott of the consequences of not opposing the Motion, and Judge Baldwin gave Scott a sua sponte


1 extension of time to oppose it. (*Id.* at 1.) In addition, the objection period to the R&R
2 effectively gave Scott another opportunity to oppose the Motion, but he did timely object
3 to the R&R. The Court cannot give Scott unlimited chances to oppose summary judgment
4 and agrees with Judge Baldwin's exhaustion analysis. In sum, and having reviewed the
5 R&R, Judge Baldwin did not clearly err.

6 It is therefore ordered that Judge Baldwin's Report and Recommendation (ECF
7 No. 44) is accepted and adopted in full.

8 It is further ordered that Defendants' motion for summary judgment (ECF No. 36)
9 is granted.

10 The Clerk of Court is directed to enter judgment accordingly—in Defendants'
11 favor—and close this case.

12 DATED THIS 14th Day of May 2025.

13
14
15 
16 MIRANDA M. DU
17 UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28